



State of Utah

GARY R. HERBERT
Governor

GREG BELL
Lieutenant Governor

**Department of
Environmental Quality**

Amanda Smith
Executive Director

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Deputy Director

December 1, 2010

The Honorable Curtis Oda
House of Representatives
Co-chair, Administrative Rules Review Committee
PO Box 824
Clearfield, UT 84089

The Honorable Howard Stephenson
Utah State Senate
Co-chair, Administrative Rules Review Committee
1038 East 13590 South
Draper, UT 84010

Dear Representative Oda and Senator Stephenson:

Subject: Recommended Rules for Carbon Capture and Geologic Sequestration

On November 15, 2010, representatives of the Divisions of Air and Water Quality, and the Utah Public Service Commission reported to the Committee on the recommended rules for carbon capture and geologic sequestration that were developed in accordance with mandates in the amended Energy Resource Procurement Act of March 2008. As a follow-up task, the Committee requested a list of statutory changes that would be required before the recommended rules could be enacted. The following topics may be considered in a future legislative session to address issues pertaining to Carbon Capture and Geologic Sequestration (CCGS):

- **Statutory Authority for State Agencies**
 - a. **Carbon Capture Authority** - Statutory authority would be necessary for the Division of Air Quality in U.C.A. 19-2-104 Powers of the Board.
 - b. **Carbon Injection Authority** - Statutory authority would be necessary for the agency over carbon injection, likely the Division of Oil, Gas & Mining, in U.C.A. 40-6-1 Declaration of Public Interest and U.C.A. 40-6-5 Jurisdiction of Board.

- **Pore Space Ownership**

Current Utah law does not address whether the surface property owner or the mineral rights holder owns the subsurface pore space to be utilized in a CCGS project.

- **Long-Term Liability**

Current Utah law does not address who assumes liability for injected carbon dioxide from a CCGS project, after the injection period and the post-closure 50-year period.

If you have any questions, please contact me at your convenience.

Regards,



Amanda Smith
Executive Director

cc: Arthur L. Hunsaker, Policy Analyst, Administrative Rules Review Committee
John Baza, Director, Division of Oil, Gas & Mining
Cheryl Heying, Director, Division of Air Quality
Walt Baker, Director, Division of Water Quality